

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, et al.,

Defendants.

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Criminal Action No. 06-50-GMS

GOVERNMENT'S MOTION IN LIMINE

The United States of America, by and through its attorneys Colm F. Connolly, United States Attorney for the District of Delaware, and Douglas E. McCann and Beth Moskow-Schnoll, Assistant United States Attorneys for the District of Delaware, hereby moves in *limine* as follows in regard to two issues:

1. Defendant Willie Brown and Defendant Ashley Harrison are charged with conspiracy to distribute more than fifty grams of cocaine base. Defendant Willie Brown is also charged with four substantive distributions of more than fifty grams of cocaine base.

Issue – Defendant Willie Brown's Prior Convictions

2. Defendant Brown's criminal history indicates that he has been convicted of a felony involving dishonesty, and a misdemeanor involving dishonesty. The felony is a November 30, 2004, conviction for Forgery 2nd Degree in violation of 11 Del. C. § 861 in the Superior Court of Delaware in and for Kent County. The misdemeanor is also a November 30, 2004, conviction for Criminal Impersonation to Obtain Benefit or Defraud in violation of 11 Del. C. § 907 in the Superior Court of Delaware in and for Kent County.

3. The defendant may testify at trial. Should he do so, the Government would seek to

impeach his testimony with these convictions.

4. The felony Forgery 2nd conviction is admissible under Federal Rule of Evidence 609(a) – under Rule (a)(1) as a discretionary matter, since the conviction is for a felony, and under Rule (a)(2) as of right, since the conviction “involved dishonesty.” Fed. R. Evid. 609(a). *See United States v. Wong*, 703 F.2d 65 (3d Cir. 1983) (district court has no discretion not to admit 609(a)(2) conviction against defendant if he testifies). The misdemeanor Criminal Impersonation conviction is admissible as of right under Fed. R. Evid. 609(a)(2).

Issue – Authenticity of Business Records

5. The Government has subpoenaed various records for trial from Cingular Wireless, Cellco Partnership, Avis Rent-a-Car, Delaware State Housing Authority, and Virgin Mobile. The government expects to receive, with the records, certificates attesting to the business records foundation for the records. *See* Fed. R. Evid. 803(6). The government will provide the records and the signed certificates to defense counsel as soon as it receives them. The certificates are in the form provided for by Federal Rule of Evidence 902(11). The subpoenas and the unsigned certificates are attached hereto as Ex. A. Thus, the Government respectfully submits, subject to it obtaining the executed certificates and the accompanying records and turning them over to defense counsel, the foundation for the admission of these records is met. *See generally United States v. LaGuerre*, 119 Fed. Appx. 458, 2005 WL 23412 (4th Cir. Jan. 6, 2005) (discussing requirements of Rule 902(11)). The Government’s interest in addressing this matter pretrial is to streamline the trial and to make sure that the Government has all necessary witnesses at trial. The Government would therefore respectfully request a pretrial ruling, pursuant to Fed. R. Evid. 104(a), that the certificates provide an adequate foundation for the admission of telephone records sought by the Cingular Wireless,

Cellco Partnership, and Virgin Mobile subpoenas, the housing records sought by the Delaware State Housing Authority subpoena, and the car rental records sought by the Avis Rent-A-Car subpoena.

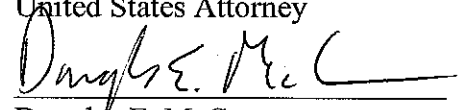
6. While the Government doubts that there would be any basis for objecting to these exhibits on the basis of relevance, the Government does not request that the Court determine that any of these exhibits are relevant. The Government's request is merely that the certificates provide an adequate foundation to admit the exhibits as business records, without the need to call a custodian of records.

Wherefore, the Government's motion in *limine* should be granted.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

By:


Douglas E. McCann
Beth Moskow-Schnoll
Assistant United States Attorneys

Dated: February 13, 2007

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

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Criminal Action No. 06-50-GMS

ORDER

The Court having considered the Government's Motion in *Limine*, and the Defendants' responses to the Motion in *Limine*, and having heard the parties at the Pretrial Conference,

NOW, THEREFORE this ____ day of _____, 2007,

IT IS ORDERED THAT the Government's motion is GRANTED.

Honorable Gregory M. Sleet
United States District Judge

EXHIBIT A

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

V.

WILLIE BROWN ET AL

SUBPOENA IN A
CRIMINAL CASE

CASE NUMBER: 06-50-GMS

TO: Celco Partnership Dba
Verizon Wireless
51 Imclone Drive
Branchburg, NJ 08876
FAX: 908-203-5875

TRIAL
(April 9 - 20, 2007)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

J. Caleb Boggs Federal Building
844 King Street, 5th Floor
Wilmington, DE 19801

COURTROOM

4A, 4th Floor

DATE AND TIME

April 9, 2007
8:30 AM

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

SEE ATTACHMENT A

YOU MAY BE ENTITLED TO REIMBURSEMENT FOR CERTAIN EXPENSES RESULTING FROM YOUR APPEARANCE. PLEASE CONTACT _____ OR
AT (302) 573-6277 OR 1-888-293-8162 UPON RECEIPT OF THIS SUBPOENA TO DETERMINE YOUR SPECIFIC ENTITLEMENTS.

CLERK OF COURT
Peter T. Dalleo

Date

(BY DEPUTY CLERK)

January 31, 2007

Attorney's Name, Address and Phone Number

Douglas E. McCann, Esquire
Assistant United States Attorney
United States Attorney's Office
Nemours Building
1007 Orange Street, Suite 700
Wilmington, DE 19801 (302) 573-6277
Toll Free (888) 293-8162

ATTACHMENT A

**VERIZON WIRELESS
TRIAL SUBPOENA
U.S. v. WILLIE BROWN**

For the period November 1, 2005 through April 30, 2006, all records concerning Verizon Wireless telephone 302-270-9165, including but not limited to the name, street and/or mailing addresses of the customer/subscriber, ESN/IMSI and any other pertinent information as well as incoming and outgoing call detail records from November 1, 2005 to April 30, 2006. If possible, please provide the call detail records on a compact or floppy disk."

In lieu of personal appearance, records may be sent, certified mail, return receipt requested, to Douglas E. McCann, Assistant United States Attorney, Nemours Building, 1007 Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899-2046.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, ET AL

Defendant.

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Criminal Action No. 06-50-GMS

CERTIFICATION

1. I am a Subpoena Specialist for Cellco Partnership dba Verizon Wireless. I am responsible for processing subpoenas for records maintained by Cellco Partnership dba Verizon Wireless and for providing such records to requesting parties.

2. During all relevant and material times concerning the attached records:

- a. Cellco Partnership dba Verizon Wireless was and is a business which provides wireless telephone services;
- b. it was and is the regular practice of Cellco Partnership dba Verizon Wireless to make memoranda, reports, records, and data compilations concerning wireless telephone services;
- c. employees of Cellco Partnership dba Verizon Wireless make and keep these memoranda, reports, records and data compilations in the ordinary course of the regularly conducted business activity of Cellco Partnership dba Verizon Wireless;
- d. the employees who make these memoranda, reports, records, and data compilations, make these memoranda, reports, records and data

compilations of acts and events: 1) at or near the time the information contained therein is transmitted to those employees, and 2) from information transmitted by persons with knowledge of the information; and

- e. the attached records, consisting of subscriber data and call records are memoranda, reports, records and data compilations of certain records of the regularly conducted business activity of Cellco Partnership dba Verizon Wireless, made and kept as stated in this certification.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct. Executed on the ____ day of _____, 2007.

(Signature)

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

SUBPOENA IN A
CRIMINAL CASE

V.

WILLIE BROWN

CASE NUMBER: 06-50-GMS

TO: Cingular Wireless
PO Box 24679
West Palm Beach, FL 33416-4679
FAX: 888-938-4715

TRIAL
(April 9 - 20, 2007)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

J. Caleb Boggs Federal Building
844 King Street, 5th Floor
Wilmington, DE 19801

COURTROOM

4A, 4th Floor

DATE AND TIME

April 9, 2007
8:30 AM

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AT (302) 573-6277 OR 1-888-293-8162 UPON RECEIPT OF THIS SUBPOENA TO DETERMINE YOUR SPECIFIC ENTITLEMENTS.

CLERK OF COURT
Peter T. Dalleo

Date

(BY DEPUTY CLERK)

January 31, 2007

Attorney's Name, Address and Phone Number

Douglas E. McCann, Esquire
Assistant United States Attorney
United States Attorney's Office
Nemours Building
1007 Orange Street, Suite 700
Wilmington, DE 19801 (302) 573-6277
Toll Free (888) 293-8162

ATTACHMENT A

**CINGULAR WIRELESS
TRIAL SUBPOENA
U.S. v. WILLIE BROWN**

For the period November 1, 2005 through April 30, 2006, all records concerning Cingular Wireless telephone 302-883-1618, including but not limited to the name, street and/or mailing addresses of the customer/subscriber, ESN/IMSI and any other pertinent information as well as incoming and outgoing call detail records from November 1, 2005 to April 30, 2006. If possible, please provide the call detail records on a compact or floppy disk."

In lieu of personal appearance, records may be sent, certified mail, return receipt requested, to Douglas E. McCann, Assistant United States Attorney, Nemours Building, 1007 Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899-2046.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, ET AL

Defendant.

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Criminal Action No. 06-50-GMS

CERTIFICATION

1. I am a Subpoena Specialist for Cingular Wireless. I am responsible for processing subpoenas for records maintained by Cingular Wireless and for providing such records to requesting parties.

2. During all relevant and material times concerning the attached records:

- a. Cingular Wireless was and is a business which provides wireless telephone services;
- b. it was and is the regular practice of Cingular Wireless to make memoranda, reports, records, and data compilations concerning wireless telephone services;
- c. employees of Cingular Wireless make and keep these memoranda, reports, records and data compilations in the ordinary course of the regularly conducted business activity of Cingular Wireless;
- d. the employees who make these memoranda, reports, records, and data compilations, make these memoranda, reports, records and data compilations of acts and events: 1) at or near the time the information

contained therein is transmitted to those employees, and 2) from
information transmitted by persons with knowledge of the information;
and

- e. the attached records, consisting of subscriber data and call records are
memoranda, reports, records and data compilations of certain records of
the regularly conducted business activity of Cingular Wireless, made and
kept as stated in this certification.

I, _____, hereby declare under penalty of perjury that the
foregoing is true and correct. Executed on the ____ day of _____, 2007.

(Signature)

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

SUBPOENA IN A
CRIMINAL CASE

V.

WILLIE BROWN, ET AL

CASE NUMBER: 06-50-GMS

TO: Virgin Mobile

Attn: Shelley Ulyak
10 Independence Blvd.
Warren, NJ 07059
FAX: 908-607-4205TRIAL
(April 9 - 20, 2007)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

J. Caleb Boggs Federal Building
844 King Street, 5th Floor
Wilmington, DE 19801

COURTROOM

4A, 4th Floor

DATE AND TIME

April 9, 2007
8:30 AM

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AT (302) 573-6277 OR 1-888-293-8162 UPON RECEIPT OF THIS SUBPOENA TO DETERMINE YOUR SPECIFIC ENTITLEMENTS.

CLERK OF COURT
Peter T. Dalleo

Date

(BY DEPUTY CLERK)

February 13, 2007

Attorney's Name, Address and Phone Number

Douglas E. McCann, Esquire
Assistant United States Attorney
United States Attorney's Office
Nemours Building
1007 Orange Street, Suite 700
Wilmington, DE 19801 (302) 573-6277
Toll Free (888) 293-8162

ATTACHMENT A

**VIRGIN MOBILE
TRIAL SUBPOENA
U.S. v. WILLIE BROWN**

For the period November 1, 2005 through April 30, 2006, all records concerning Virgin Mobile Wireless telephone 302-241-6724, including but not limited to the name, street and/or mailing addresses of the customer/subscriber, ESN/IMSI and any other pertinent information as well as incoming and outgoing call detail records from November 1, 2005 to April 30, 2006. If possible, please provide the call detail records on a compact or floppy disk."

In lieu of personal appearance, records may be sent, certified mail, return receipt requested, to Douglas E. McCann, Assistant United States Attorney, Nemours Building, 1007 Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899-2046.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, ET AL

Defendant.

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Criminal Action No. 06-50-GMS

CERTIFICATION

1. I am a Subpoena Specialist for Virgin Mobile. I am responsible for processing subpoenas for records maintained by Virgin Mobile and for providing such records to requesting parties.

2. During all relevant and material times concerning the attached records:

- a. Virgin Mobile was and is a business which provides wireless telephone services;
- b. it was and is the regular practice of Virgin Mobile to make memoranda, reports, records, and data compilations concerning wireless telephone services;
- c. employees of Virgin Mobile make and keep these memoranda, reports, records and data compilations in the ordinary course of the regularly conducted business activity of Virgin Mobile;
- d. the employees who make these memoranda, reports, records, and data compilations, make these memoranda, reports, records and data compilations of acts and events: 1) at or near the time the information

contained therein is transmitted to those employees, and 2) from
information transmitted by persons with knowledge of the information;
and

- e. the attached records, consisting of subscriber data and call records are
memoranda, reports, records and data compilations of certain records of
the regularly conducted business activity of Virgin Mobile, made and kept
as stated in this certification.

I, _____, hereby declare under penalty of perjury that the
foregoing is true and correct. Executed on the ____ day of _____, 2007.

(Signature)

AO 89 (Rev 11/91) Subpoena in a Criminal Case

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

v.

SUBPOENA IN A
CRIMINAL CASE

WILLIE BROWN ET AL

CASE NUMBER: 06-50-GMS

TO: Delaware State Housing Authority
 Capitol Green Housing Corporation
 479 River Road
 Dover, DE 19901

TRIAL
 (April 9 - 20, 2007)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

J. Caleb Boggs Federal Building
 844 King Street, 5th Floor
 Wilmington, DE 19801

COURTROOM

4A, 4th Floor

DATE AND TIME

April 9, 2007
 8:30 AM

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

Please provide all records related to the residency of Ashley Nicole Harrison at 461 River Road, Dover, DE 19901.

In lieu of personal appearance, records may be sent, certified mail, return receipt requested, to Douglas E. McCann, Assistant United States Attorney, Nemours Building, 1007 N. Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899-2046.

YOU MAY BE ENTITLED TO REIMBURSEMENT FOR CERTAIN EXPENSES RESULTING FROM YOUR APPEARANCE. PLEASE CONTACT _____ OR _____ AT (302) 573-6277 OR 1-888-293-8162 UPON RECEIPT OF THIS SUBPOENA TO DETERMINE YOUR SPECIFIC ENTITLEMENTS.

CLERK OF COURT
 Peter T. Dalleo

Date

(BY DEPUTY CLERK)

February 5, 2007

Attorney's Name, Address and Phone Number

Douglas E. McCann, Esquire
 Assistant United States Attorney
 United States Attorney's Office
 Nemours Building
 1007 Orange Street, Suite 700
 Wilmington, DE 19801 (302) 573-6277
 Toll Free (888) 293-8162

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, ET AL

Defendant.

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Criminal Action No. 06-50-GMS

CERTIFICATION

1. I am a Subpoena Specialist for Delaware State Housing Authority. I am responsible for processing subpoenas for records maintained by Delaware State Housing Authority and for providing such records to requesting parties.

2. During all relevant and material times concerning the attached records:

- a. Delaware State Housing Authority was and is a business which provides housing.
- b. it was and is the regular practice of Delaware State Housing Authority to make memoranda, reports, records, and data compilations concerning housing;
- c. employees of Delaware State Housing Authority make and keep these memoranda, reports, records and data compilations in the ordinary course of the regularly conducted business activity of Delaware State Housing Authority;
- d. the employees who make these memoranda, reports, records, and data compilations, make these memoranda, reports, records and data

compilations of acts and events: 1) at or near the time the information contained therein is transmitted to those employees, and 2) from information transmitted by persons with knowledge of the information; and

- e. the attached records, consisting of records of the property at 461 River Road, Dover, DE 19901, related to the tenancy of Ashley Nicole Harrison, are memoranda, reports, records and data compilations of certain records of the regularly conducted business activity of Delaware State Housing Authority, made and kept as stated in this certification.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct. Executed on the ____ day of _____, 2007.

(Signature)

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

SUBPOENA IN A
CRIMINAL CASE

V.

WILLIE BROWN, ET AL

CASE NUMBER: 06-50-GMS

TO: AVIS RENT-A-CAR
6 Sylvan Way
Parsippany, NJ 07054
FAX: 888-304-2315

TRIAL

(APRIL 9-20, 2007)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

J. Caleb Boggs Federal Building
844 King Street, 5th Floor
Wilmington, DE 19801

COURTROOM

4A, 4th Floor

DATE AND TIME

April 9, 2007
8:30 AM

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

For the period November 1, 2005 to December 31, 2006, all records concerning the rental of a 2006 Buick Rendezvous, Pennsylvania license plate GFF-9646, VIN: 3G5DA03LX6S509915.

In lieu of personal appearance, records may be sent, certified mail, return receipt requested, to Douglas E. McCann, Assistant United States Attorney, Nemours Building, 1007 N. Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899-2046.

YOU MAY BE ENTITLED TO REIMBURSEMENT FOR CERTAIN EXPENSES RESULTING FROM YOUR APPEARANCE. PLEASE CONTACT _____ OR AT (302) 573-6277 OR 1-888-293-8162 UPON RECEIPT OF THIS SUBPOENA TO DETERMINE YOUR SPECIFIC ENTITLEMENTS.

CLERK OF COURT
Peter T. Dalleo

Date

(BY DEPUTY CLERK)

January 31, 2007

Attorney's Name, Address and Phone Number

Douglas E. McCann, Esquire
Assistant United States Attorney
United States Attorney's Office
Nemours Building
1007 Orange Street, Suite 700
Wilmington, DE 19801 (302) 573-6277
Toll Free (888) 293-8162

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIE BROWN, ET AL

Defendant.

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Criminal Action No. 06-50-GMS

CERTIFICATION

1. I am a Subpoena Specialist for AVIS Rent-A-Car. I am responsible for processing subpoenas for records maintained by AVIS Rent-A-Car and for providing such records to requesting parties.

2. During all relevant and material times concerning the attached records:

- a. AVIS Rent-A-Car was and is a business which provides vehicles for for rental
- b. it was and is the regular practice of AVIS Rent-A-Car to make memoranda, reports, records, and data compilations concerning vehicle rentals;
- c. employees of AVIS Rent-A-Car make and keep these memoranda, reports, records and data compilations in the ordinary course of the regularly conducted business activity of AVIS Rent-A-Car;
- d. the employees who make these memoranda, reports, records, and data compilations, make these memoranda, reports, records and data compilations of acts and events: 1) at or near the time the information

contained therein is transmitted to those employees, and 2) from information transmitted by persons with knowledge of the information; and

- e. the attached records, consisting of records of the rental of a 2006 Buick Rendezvous, PA GFF9646m VIN: 3G5DA03LX6S509915, are memoranda, reports, records and data compilations of certain records of the regularly conducted business activity of AVIS Rent-A-Car, made and kept as stated in this certification.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct. Executed on the ____ day of _____, 2007.

(Signature)

FOR THE DISTRICT OF DELAWARE

Defendant.

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Case No. 06-62-SLR

CERTIFICATE OF SERVICE

I, Marie Steel, Legal Assistant in the Office of the United States Attorney for the District of Delaware, hereby certify that on the 13th day of February, 2007, I caused to be filed a Government's Motion in Limine with the Clerk of Court. I further certify that a copy of the foregoing was mailed via First Class Mail to counsel of record as follows:

Johanna Markind, Esquire
1500 Walnut Street Suite 1100
Philadelphia, PA 19102
215-735-9004 (fax)

Elliot Cohen, Esquire
Two Penn Center Plaza
15th & JFK Boulevard, Suite# 1516
Philadelphia, Pennsylvania 19102
215-568-1995 (fax)

Marie Steel
Legal Assistant